

(l) No person because of race, color, creed, sex, age, disability or national origin shall be unlawfully denied membership, unlawfully excluded from participation, or otherwise subjected to unlawful discrimination by any private organization on a DoD installation covered by this part. DoD installations will publicly disseminate information on procedures for individuals to follow at the local installation when unlawful discrimination by private organizations is suspected.

(m) Applicable laws on labor standards for employment shall be observed.

(n) This part does not apply to the following organizations, which are governed by DoD Directives and Instructions as referenced:

(1) Scouting organizations operating at U.S. military installations located overseas (DoD Instruction 1015.9).<sup>3</sup>

(2) American National Red Cross (DoD Directive 1330.5).<sup>4</sup>

(3) United Service Organizations, Inc. (DoD Directive 1330.12).<sup>5</sup>

(4) United Seamen's Service (DoD Directive 1330.16).<sup>6</sup>

(5) Financial Institutions on DoD Installations (32 CFR part 231).

(o) Certain unofficial activities may be conducted on DoD installations, but need not be formally authorized because of the limited scope of their activities, membership or funds. Examples are office coffee funds, flower funds, and similar small, informal activities and funds. DoD Components shall establish the basis upon which such informal activities and funds shall operate.

## PART 213—SUPPORT FOR NON-FEDERAL ENTITIES AUTHORIZED TO OPERATE ON DOD INSTALLATIONS

Sec.

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AUTHORITY: 10 U.S.C. 2554 and 2606.

<sup>3</sup>See footnote to §212.1(b).

<sup>4</sup>See footnote to §212.1(b).

<sup>5</sup>See footnote to §212.1(b).

<sup>6</sup>See footnote to §212.1(b).

SOURCE: 72 FR 56012, Oct. 2, 2007, unless otherwise noted.

### §213.1 Purpose.

(a) Authorizes 32 CFR part 212.

(b) Establishes policy and assigns responsibilities under DoD Directive 5124.8<sup>1</sup> for standardizing support to non-Federal entities authorized to operate on DoD installations.

(c) Designates the Secretary of the Army as the DoD Executive Agent (DoD EA) according to DoD Directive 5101.1.<sup>2</sup>

(1) For DoD support to the Boy Scouts of America (BSA) and Girl Scouts of the United States of America (GSUSA) local councils and organizations in areas outside of the United States 10 U.S.C. 2606. DoD support will also cover the periodic national jamboree according to 10 U.S.C. 2606.

(2) To perform the annual audit of the American Red Cross (ARC) accounts and to prepare and submit the annual report to Congress according to 36 U.S.C. 300110.

(3) To provide the ARC with the necessary deployment support.

(d) Designates the Secretary of the Air Force as the DoD EA responsible for conducting the Armed Forces Entertainment (AFE) program.

### §213.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components") and non-Federal entities authorized to operate on DoD installations.

(b) Shall not revise, modify, or rescind any Memorandum of Understanding (MOU) between a non-Federal entity and the U.S. Government or the Department of Defense or their implementing arrangements in existence as

<sup>1</sup>Copies may be obtained at <http://www.dtic.mil/whs/directives/>.

<sup>2</sup>Copies may be obtained at <http://www.dtic.mil/whs/directives/>.

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of the effective date of this Directive. Additionally, the Directive shall not revise, modify, or rescind any MOU between the Department of Justice (DoJ) and the Department of Defense that is in existence as of the effective date of this Directive. Any such agreements shall, as they expire, come up for renewal, or as circumstances otherwise permit, be revised to conform to this Directive and any implementing guidance.

(c) Does not apply to banks or credit unions addressed in DoD Directive 1000.11<sup>3</sup> or the Civil Air Patrol according to 10 U.S.C. 2554, 2606 and 9441.

### §213.3 Definition.

*Non-federal entities.* A non-Federal entity is generally a self-sustaining, non-Federal person or organization, established, operated, and controlled by any individual(s) acting outside the scope of any official capacity as officers, employees, or agents of the Federal Government. This Directive addresses only those entities that may operate on DoD installations with the express consent of the installation commander or higher authority under applicable regulations. Non-Federal entities may include elements of state, interstate, Indian tribal, and local government, as well as private organizations.

### §213.4 Policy.

It is DoD policy that:

(a) DoD support for non-Federal entities shall be in accordance with relevant statutes as well as DoD 5500.7-R<sup>4</sup>. In accordance with DoD 5500.7-R and to avoid preferential treatment, DoD support should be uniform, recognizing that non-Federal entity support of Service members and their families can be important to their welfare.

(b) Under DoD Directive 5124.8 procedures shall be established as Instructions and agreements for the operation of non-Federal entities on DoD installations and for the prohibition of official sanction, endorsement, or support by the DoD Components and officials, except as authorized by DoD 5500.7-R

and applicable law. Instructions and agreements must be compatible with the primary mission of the Department and provide for Congressionally authorized support to non-Federal entities on DoD installations.

(c) In accordance with DoD 5500.7-R, installation commanders or higher authority may authorize, in writing, logistical support for events, including fundraising events, sponsored by non-Federal entities covered by this part.

(d) Installation commanders or higher authority may coordinate with non-Federal entities in order to support appropriated or nonappropriated fund activities on DoD installations, so long as the support provided by the non-Federal entities does not compete with appropriated or nonappropriated fund activities.

(e) Non-Federal entities are not entitled to sovereign immunity and the privileges given to Federal entities and instrumentalities.

### §213.5 Responsibilities.

(a) The Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDUSD(P&R)), under the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Be responsible for implementing all policy matters and Office of the Secretary of Defense oversight of non-Federal entities on DoD installations.

(2) Develop procedures and execute any necessary agreements to implement policy for the operation of non-Federal entities on DoD installations.

(3) Assign responsibilities to the DoD Components to accomplish specific oversight and administrative responsibilities with respect to non-Federal entities operating on DoD installations.

(4) Oversee the activities of the designated DoD EA, assessing the need for continuation, currency, effectiveness, and efficiency of the DoD EA according to 10 U.S.C. 2554 and 2606. Make recommendations for establishment of additional DoD EA assignments and arrangements as necessary.

(b) The Secretary of the Army, as the designated DoD EA, and according to 10 U.S.C. 2554 and 2606, shall:

(1) Perform the audit of the annual ARC accounts and prepare and submit

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